

105TH CONGRESS
1ST SESSION

H. R. 1734

To amend the Small Business Investment Act of 1958, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mr. LAFALCE (for himself, Mr. SISISKY, and Mr. WEYGAND) introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Investment Act of 1958, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 That this Act may be cited as the “Certified Development
4 Company Enhancement and Improvement Act of 1997”.

5 SEC. 2. Section 20 of the Small Business Act (15
6 U.S.C. 631 note) is amended by inserting the following
7 new subsection:

1 “(r) The following program levels are authorized in
2 financings as provided in section 7(a)(13) and section 504
3 of the Small Business Investment Act of 1958:

4 “(1) \$3,000,000,000 for fiscal year 1998;

5 “(2) \$3,500,000,000 for fiscal year 1999; and

6 “(3) \$4,500,000,000 for fiscal year 2000.”.

7 SEC. 3. Section 503 of the Small Business Invest-
8 ment Act of 1958 (15 U.S.C. 697) is amended—

9 (1) by striking subsection (b)(7)(A) and insert-
10 ing the following:

11 “(A) assesses and collects a fee, which
12 shall be payable by the borrower, in an amount
13 equal to 0.9375 percent per year of the out-
14 standing balance of the loan; and”;

15 (2) by striking from subsection (d)(2) “equal to
16 50 basis points” and inserting “equal to not more
17 than 50 basis points,”;

18 (3) by adding the following at the end of sub-
19 section (d)(2): “The amount of the fee authorized
20 herein shall be established annually by the Adminis-
21 tration in the minimal amount necessary to reduce
22 the cost (as that term is defined in section 502 of
23 the Federal Credit Reform Act of 1990) to the Ad-
24 ministration of purchasing and guaranteeing deben-
25 tures under this Act to zero.”; and

1 (4) by striking from subsection (f) “1997” and
2 inserting “2000”.

3 SEC. 4. Section 508(a) of the Small Business Invest-
4 ment Act of 1958 (15 U.S.C. 697e(a)) is amended by
5 striking “not more than 15”.

6 SEC. 5. Section 508(b)(2) of the Small Business In-
7 vestment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended
8 by striking paragraphs (A) and (B) and inserting:

9 “(A) is an active certified development
10 company in good standing and has been an ac-
11 tive participant in the accredited lenders pro-
12 gram during the entire 12-month period preced-
13 ing the date on which the company submits an
14 application under paragraph (1), except that
15 the Administration may waive this requirement
16 if the company is qualified to participate in the
17 accredited lenders program;

18 “(B) has a history (i) of submitting to the
19 Administration adequately analyzed debenture
20 guarantee application packages and (ii) of prop-
21 erly closing section 504 loans and servicing its
22 loan portfolio; and”.

23 SEC. 6. Section 508(c) of the Small Business Invest-
24 ment Act of 1958 (15 U.S.C. 697e(c)) is amended to read
25 as follows:

1 “(c) LOSS RESERVE.—

2 “(1) ESTABLISHMENT.—A company designated
3 as a premier certified lender shall establish a loss re-
4 serve for financing approved pursuant to this sec-
5 tion.

6 “(2) AMOUNT.—The amount of the loss reserve
7 shall be equal to 10 percent of the amount of the
8 company’s exposure as determined under subsection
9 (b)(2)(C).

10 “(3) ASSETS.—The loss reserve shall be com-
11 prised of any combination of the following types of
12 assets:

13 “(A) segregated funds on deposit in an ac-
14 count or accounts with a federally insured de-
15 pository institution or institutions selected by
16 the company, subject to a collateral assignment
17 in favor of, and in a format acceptable to, the
18 Administration; or

19 “(B) irrevocable letter or letters of credit,
20 with a collateral assignment in favor of, and a
21 commercially reasonable format acceptable to,
22 the Administration.

23 “(4) CONTRIBUTIONS.—The company shall
24 make contributions to the loss reserve, either cash or

1 letters of credit as provided above, in the following
2 amounts and at the following intervals:

3 “(A) 50 percent when a debenture is
4 closed;

5 “(B) 25 percent additional not later than
6 1 year after a debenture is closed; and

7 “(C) 25 percent additional not later than
8 2 years after a debenture is closed.

9 “(5) REPLENISHMENT.—If a loss has been sus-
10 tained by the Administration, any portion of the loss
11 reserve, and other funds provided by the premier
12 company as necessary, may be used to reimburse the
13 Administration for the company’s 10 percent share
14 of the loss as provided in subsection (b)(2)(C). If the
15 company utilizes the reserve, within 30 days it shall
16 replace an equivalent amount of funds.

17 “(6) DISBURSEMENTS.—The Administration
18 shall allow the certified development company to
19 withdraw from the loss reserve amounts attributable
20 to any debenture which has been repaid.”.

21 SEC. 7. Section 508 of the Small Business Invest-
22 ment Act of 1958 (15 U.S.C. 697e) is amended by insert-
23 ing the following after subsection (d) and by redesignating
24 subsections (e) to (i) as (f) to (j):

1 “(e) PROGRAM GOALS.—Certified development com-
 2 panies participating in this program shall establish a goal
 3 of processing a minimum of at least 50 percent of their
 4 loan applications for section 504 assistance pursuant to
 5 the premier certified lender program authorized in this
 6 section.”.

7 SEC. 8. Section 508(g) of the Small Business Invest-
 8 ment Act of 1958 (15 U.S.C. 697(g)), as redesignated
 9 herein, is amended by striking “State or local” and insert-
 10 ing “certified”.

11 SEC. 9. Section 508(h) of the Small Business Invest-
 12 ment Act of 1958 (15 U.S.C. 697e(h)), as redesignated
 13 herein, is amended—

14 (1) by striking “EFFECT OF SUSPENSION
 15 OR DESIGNATION” and inserting “EFFECT OF
 16 SUSPENSION OR REVOCATION”; and

17 (2) by striking “under subsection (f)” and in-
 18 serting “under subsection (g)”.

19 SEC. 10. Section 508(i) of the Small Business Invest-
 20 ment Act of 1958 (15 U.S.C. 697e(i)), as redesignated
 21 herein, is amended to read as follows:

22 “(i) REGULATIONS.—Not later than 90
 23 days after the date of enactment of this section,
 24 the Administration shall promulgate regulations
 25 to carry out this section. Not later than 120

1 days after the date of enactment, the Adminis-
2 tration shall issue program guidelines and im-
3 plement the changes made herein.”.

4 SEC. 11. Section 508(j) of the Small Business Invest-
5 ment Act of 1958 (15 U.S.C. 697e(j)), as redesignated
6 herein, is amended by striking “other lenders” and insert-
7 ing “other lenders, specifically comparing default rates
8 and recovery rates on liquidations”.

9 SEC. 12. Section 217(b) of Public Law 103–403 (108
10 Stat. 4185) is repealed.

11 SEC. 13. Section 508(d) of the Small Business In-
12 vestment Act of 1958 (15 U.S.C. 697e(d)) is amended by
13 striking “to approve loans” and inserting “to approve, au-
14 thorize, close, service, and liquidate loans”.

15 SEC. 14. Section 502(1) of the Small Business In-
16 vestment Act of 1958 (15 U.S.C. 696(1)) is amended to
17 read as follows:

18 “(1) The proceeds of any such loan shall be
19 used solely by such borrower or borrowers to assist
20 an identifiable small-business or businesses and for
21 a sound business purpose approved by the Adminis-
22 tration.”.

23 SEC. 15. Section 502 of the Small Business Invest-
24 ment Act of 1958 (15 U.S.C. 696) is amended by adding
25 the following new subsection:

1 “(5) Not to exceed 25 per centum of the project
2 may be leased by the assisted small business: *Pro-*
3 *vided*, That the tenant is a small business concern:
4 *And provided further*, That the assisted small busi-
5 ness shall be required to occupy and use not less
6 than 55 per centum of the space in the project after
7 the execution of any leases authorized in this sec-
8 tion.”.

9 SEC. 16. Section 502(3) of the Small Business In-
10 vestment Act of 1958 (15 U.S.C. 696(3)) is amended by
11 inserting the following new paragraphs:

12 “(D) SELLER FINANCING.—Seller provided
13 financing may be used to meet the requirements
14 of—

15 “(i) paragraph (B), if the seller subor-
16 dinates his interest in the property to the
17 debenture guaranteed by the Administra-
18 tion; and

19 “(ii) not to exceed 50 percent of the
20 amounts required by paragraph (C).

21 “(E) COLLATERAL REQUIREMENTS.—Col-
22 lateral provided by the small business concern
23 shall be valued in an amount estimated as the
24 reasonable value of the property by a willing
25 buyer and a willing seller and shall include

1 property not a part of the project being fi-
2 nanced only if the Administration determines to
3 impose such a requirement on a case-by-case
4 basis.”.

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